

31th July 2009

Tena koutou

MINISTRY OF FISHERIES (MFISH) TREATY STRATEGY - BUILDING BETTER INPUT AND PARTICIPATION PROCESSES – DECISIONS FOLLOWING CONSULTATION

In July 2008 MFish released a paper to support a discussion with tangata whenua on how it could better provide for their participation in sustainability decisions. While the Crown has a variety of fisheries obligations to tangata whenua, the focus of the paper was the obligation on the Minister of Fisheries to provide for the input and participation of tangata whenua and have particular regard for Kaitiakitanga before making sustainability decisions [s12(1)(b) Fisheries Act 1996].

The discussion paper focused on the obligation to provide for input and participation because of concerns about the processes that MFish currently provides to deliver on this obligation. These concerns include awareness that while there has been considerable progress with non-commercial customary management, there has been less discussion on how tangata whenua can participate most effectively in sustainability decisions (including the development of fisheries plans). Furthermore, engagement has generally been with non-commercial customary interests and has not included tangata whenua representatives who could speak for commercial fisheries matters.

Consultation

Over the period August 2008 - February 2009, 20 hui were held with tangata whenua and 20 submissions were received by the close of March 2009. A wide range of issues were raised by tangata whenua during the consultation process. These included:

- a) Generally restrained support for the principle that engagement processes should bring together and integrate views representative of iwi and hapu commercial and non-commercial interests (integrated participation) with a small number of representatives who strongly supported the proposition and a small number who strongly opposed it;
- b) Concerns about whether MFish, as part of the Crown, understood and was committed to fulfilling its obligations as a Treaty partner, and concerns about the lack of a consistent and coordinated approach to delivery on those Treaty obligations by MFish;
- c) Concerns about the lack of coordination across Crown agencies on issues affecting fisheries so that, for example, land-based effects on fisheries were not being adequately dealt with, and the holistic approach required by Kaitiakitanga was not being practised; and
- d) Concerns about the lack of resourcing being provided by MFish to tangata whenua to enable them to manage their non-commercial customary fishing activity and to participate effectively in sustainability decision making.

MFish direction

Substantive discussion within MFish following consultation focused on those matters addressed in the July 2008 discussion paper. In particular, discussion addressed the question of whether MFish should seek to work with tangata whenua interests (iwi and hapu; commercial and non-commercial) in an integrated way.

After considering the variety of views expressed during consultation, MFish decided that its preference is to support engagement processes which can bring together and integrate views representative of iwi and hapu commercial and non-commercial interests; and to support the development of tools which allow these integrated views to be better articulated and implemented in fisheries management. MFish believes that supporting engagement models which encourage tangata whenua to bring together and reconcile their diverse interests will:

- a) be likely to generate better fisheries management outcomes for both iwi and the Crown;
- b) allow iwi and their hapu to determine the balance between their customary non-commercial and commercial fisheries objectives, and enable a considered choice on the best tools to achieve their combined objectives, rather than focusing solely on the customary regulations (including mataitai);
- c) be more efficient, by engaging particular groups on a range of issues at the same time;
- d) better deliver on Crown obligations, by allowing a more holistic expression of Kaitiakitanga; and
- e) be more consistent with broader government policies on involving tangata whenua in natural resource management, acknowledging tangata whenua status as a Treaty Partner.

While MFish has preference for integrated participation, we understand we cannot require tangata whenua to participate in this way. Where tangata whenua choose not to take an integrated approach, MFish will ensure it delivers its statutory obligations with respect to providing input and participation for tangata whenua and consultation opportunities to iwi commercial representatives.

The MFish preference for integrated tangata whenua participation will be guided through the development of an input and participation process standard. How the standard will guide engagement will be discussed with each iwi or region and tailored to their particular characteristics. Resources will be allocated to supporting tangata whenua to develop governance arrangements and tools for integrated and proactive participation in fisheries management. For example, MFish is developing iwi rohe moana management plans with a number of iwi as a key tool for integrating iwi and hapu commercial and non-commercial fisheries aspirations.

MFish is working towards an engagement platform where it has identified and has agreed processes for engaging with:

- a) representatives of iwi (and their hapu) able to speak for commercial and non-commercial fisheries interests at a local level;
- b) regional groupings of these representatives; and

- c) a national grouping of these representatives (or a selection thereof) able to participate in national and strategic fisheries issues.

Iwi regional engagement Forums will continue, but will evolve over time to reflect the preference for integrated engagement. Fisheries plans will continue to be developed as the main vehicle for fisheries management and sustainability decisions, but the processes for providing for tangata whenua participation in the development of these plans will also need to evolve.

Ongoing Obligations to Maori work programme and discussion

During the consultation on input and participation tangata whenua raised a wide range of important Treaty partnership issues. MFish believes that these issues require further discussion and is in the process of developing a work programme which will include further engagement with iwi leaders on:

- a) how the various components of the fisheries settlement should be implemented in an integrated way, governance arrangements and tools to balance commercial and non-commercial objectives, and the best use of customary tools within that balance;
- b) the nature of and relationship between the Crown's specific fisheries obligations and the broader Crown-Maori Treaty partnership;
- c) how MFish's resources should be deployed to most effectively support the Crown's delivery on its obligations and to build tangata whenua capacity to participate in fisheries management. A review programme is being developed to effectiveness of our services for this work. We are also working to ensure we have coordinated governance and clear accountability.

Delivering on the potential of the 1992 Fisheries Settlement is our mutual, ongoing challenge. There are differing views on how this should be done: between the Crown and tangata whenua, between different iwi, and between governments with different approaches to delivering on the Crown's obligations. We would like to express our thanks to those who have contributed to this consultation round on building better input and participation processes. We believe it is part of the ongoing discussion through which we become clearer about each other's aspirations, the differences and overlaps between those aspirations, and what actions should be taken in the short term to further our common aims.

We look forward to the ongoing dialogue.

naku na



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